

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 165/Lab./AIL/J/2013, dated 18th November 2013)

NOTIFICATION

Whereas, the award in I.D. No. 35/2012, dated 6-8-2013 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Superfil Products Ltd., Puducherry and its workman Thiru C. Samidurai, over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said award shall be published in the official gazette, Puducherry.

(By order)

S. THAMMU GANAPATHY,
Under Secretary to Government (Labour).

BEFORE THE LABOUR COURT AT PUDUCHERRY

Present : Thiru T. MOHANDASS, M.A., M.L.,
Presiding Officer, Labour Court.

Tuesday, the 6th day of August 2013

I.D. No. 35/2012

Samidurai .. Petitioner

Vs.

The Managing Director,
Superfil Products Limited,
Puducherry. .. Respondent

This industrial dispute coming on 1-8-2013 for final hearing before me in the presence of Thiru K. Velmurugan, Advocate for the petitioner, Thiruvargal M. Lakshmi Narasimhan and P. Sakthi, Advocates for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this court passed the following :

AWARD

This industrial dispute arises out of the reference made by the Government of Puducherry *vide* G.O. Rt. No. 138/AIL/Lab./J/2012, dated 23-8-2012 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, *viz.*,

(1) Whether the dispute raised by Thiru C. Samidurai against the management of M/s. Superfil Products Limited, Puducherry, over non-employment is justified?

(2) If justified, to what relief the petitioner is entitled to?

(3) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. The petitioner, in his claim statement, has averred as follows :

The petitioner was working as Draw Twister Operator in the respondent company since 21-4-2003 onwards. He is an executive member in the Superfil Products Workers Union. The said union is working for the welfare of the Superfil Products employees and he is an office bearer of the said union by virtue of his post as an executive member. The respondent management through letter, dated 3-3-2010 suspended the services of the petitioner with effect from 4-3-2010 alleging false and baseless allegations by saying that the petitioner has purposely and intentionally caused sabotage to the finished products by making knife cut on the cops surface once the machine was running. He was issued with a charge sheet and having received the said charge sheet from the respondent, the petitioner on 17-3-2010 submitted his detailed explanation and also requested the respondent to give a copy of the model standing orders based on which the said charge sheet was issued. But without furnishing the model standing orders, the respondent issued an enquiry notice on 5-4-2010, which was objected by him *vide* his letter, dated 10-4-2010. However, the Enquiry Officer having read over the contents of the said letter, crumpled the letter and thrown on the face of the petitioner and shouted at him to walk out from the enquiry proceedings. As such the petitioner walked out from the enquiry proceedings and has sent the said letter to the respondent through registered post on the same day. The Enquiry Officer had conducted the enquiry proceedings in the absence of the petitioner and recorded evidence of two witnesses and also marked certain documents as exhibits.

The respondent through letter, dated 22-4-2010 had furnished a copy of section 14 of Industrial Employment (Standing Orders) Central Rules, 1946 in English version. The petitioner requested the management to furnish the Tamil translation of the said standing orders. However, the Tamil translation of the model standing orders was not given to the petitioner till date by the respondent. The petitioner through letter, dated 8-7-2010 informed the respondent that he will participate in the enquiry proceedings after the receipt of Tamil translation of the model

standing orders, since one cannot defend his case effectively without knowing what are the misconducts levelled against him. But without considering his request, the respondent has sent a letter, dated 13-7-2010 stating that the enquiry will be conducted on 17-7-2010 and if he do not attend the enquiry on the said date, the management will be conducted the enquiry *ex parte*. This statement of the respondent makes it clear that the respondent is having full control over the enquiry proceedings and the Enquiry Officer stood as a mute spectator.

The respondent through letter, dated 14-7-2010 arbitrarily and unilaterally reduced the suspension allowance of the petitioner from 75% to 25%, despite no fault on him. He has challenged the act of the respondent before this court under C.P. No. 2/2011 and the same was allowed in favour of the petitioner through order, dated 24-11-2011.

On 17-7-2010 the Enquiry Officer again conducted the enquiry proceedings in the absence of the petitioner and examined three witnesses on the management side, which was objected by him through letter, dated 30-7-2010. All of a sudden the respondent during the 3rd week of December 2010 has sent enquiry report, dated 13-12-2010 and in the said enquiry report, all the charges levelled against the petitioner was stated as proved. After a lapse of ten months, the respondent had sent a show cause notice, dated 10-10-2011 to the petitioner, asking his explanation. The petitioner has submitted his detailed explanation to the respondent through letter, dated 18-10-2011 requesting the management to discard the enquiry report. However, the management without considering the explanations put forth by the petitioner, terminated the services of the petitioner through letter, dated 31-1-2012.

The whole enquiry proceeding conducted by the Enquiry Officer was a biased one completely in favour of the respondent management. Thus the order of dismissal is illegal, unlawful bad in law and against the principles of labour jurisprudence.

3. In the counter statement, the respondent has stated as follows:-

The petitioner had cut yarn in production by use of hacksaw blade and had thus destroyed quality of product in reduction. Such deliberate acts are open sabotage inside factory. Thus respondent issued a charge sheet to the petitioner and the petitioner had sent explanation, dated 17-3-2010 on denials of each of the contents in charge. Then the enquiry was commenced and proceeded as per law. The petitioner was in deliberate delay by seeking postponements by false allegations in every hearing in enquiry.

Hence, the respondent had issued a notice on 14-7-2010 to the petitioner to show cause as to why the said allowance should not be reduced to 1/4th of basic DA and CA from July 2010. Then the enquiry report of 3-8-2010 was submitted and its copy was sent to the petitioner. Then the notice of 10-10-2011 was sent to the petitioner to show cause as to why he should not be punished by termination of job. Then the petitioner was terminated the services through letter, dated 31-1-2012. The proceedings in enquiry were completed on grant of many opportunities and in due compliances of all principles of natural justice as per relevant precedents under applicable law. Thus such report is *prima facie* correct and proper and is to be so upheld as justice as per precedents and law. Hence, the respondent prays for dismissal of the industrial dispute.

4. On the side of the petitioner, PW.1 was examined and Ex.P1 to Ex.P26 were marked. On the side of the respondent, RW.1 was examined and Ex.R1 to Ex.R7 were marked.

5. *The point for determination is:*

Whether the industrial dispute can be allowed?

6. *On the point:*

This reference has been made by the Government to decide whether the dispute raised by Thiru C. Samidurai against the management of M/s. Superfil Products Limited, Puducherry, over non-employment is justified? On the appearance of the petitioner and the management, they filed their respective claim statements and the counter.

7. On hearing both sides and on perusing the records, it reveals that the petitioner has been dismissed by the respondent. The petitioner alleged and averred in his claim statement that the domestic enquiry has not been conducted by the Enquiry Officer as prescribed by law in a neutral manner and he has conducted the domestic enquiry in a biased manner without giving any opportunity, which are entitled for the delinquents as per law as well as by the principles of natural justice and moreover the Enquiry Officer has not heard his contentions and the enquiry report has also been submitted with unjustified findings. It was stated by the petitioner that in fact he has not committed any misconduct as alleged by the respondent, but the management had taken action by way of issuing show cause notice and by way of conducting domestic enquiry without following the principles of natural justice and on wrong conclusion by the Enquiry Officer the management dismissed the said workman.

9. The respondent filed a counter before this court that they have followed the principles of natural justice while charging the delinquents and conducting the

domestic enquiry by a neutral Enquiry Officer and on proved charges alone, the petitioner had been dismissed from his services as per the principles of natural justice and even in the domestic enquiry, the petitioner had been allowed to be assisted by his co-employee and though the petitioner has been given fair chance to peruse the records as well as to cross-examine the witnesses, who were examined on the side of the management in the domestic enquiry, he failed to utilise the same. The respondent stated that the Enquiry Officer has decided the enquiry in an *ex parte* manner and on considering the documents as well the evidences of the management witnesses, he had rightly come to the conclusion that the charges of the petitioner were proved and on the conclusion of the report submitted by the Enquiry Officer the petitioner has been terminated from his services by way of punishment for the misconduct committed by him and hence, there is no scope to intervene in the order of this management by the Labour Court.

10. At this stage when I peruse the domestic enquiry report relating to the petitioner, we can understand that the petitioner was advised to participate in the enquiry, which was scheduled to be conducted on 10-4-2010 at 11.00 a.m at the factory premises under Ex.P4. But the petitioner did not participate in the enquiry proceedings and he sent a letter, dated 10-4-2012 under Ex.P9 submitting his objections for non-furnishing the copy of the model standing order by the respondent and requesting the management to furnish the same. Since the copy of the said model standing order has not been furnished to the petitioner, he has not participated in the enquiry proceedings and the Enquiry Officer proceeded to conduct the enquiry proceedings in an *ex parte* manner. On the side of the respondent management, five witnesses were examined in the enquiry against the petitioner and the said witnesses have not been cross-examined by the petitioner. Based on the evidence of the said witnesses, the Enquiry Officer held that all the charges framed against them are proved.

11. The contention of the petitioner is that by his letter, dated 10-4-2010 submitting his objections for non-furnishing the copy of the model standing order by the respondent and requested the respondent to furnish the same, but the respondent without furnishing the model standing order proceeded with the enquiry in an *ex parte* manner, which is total violation of the principles of natural justice.

12. On the other hand, the learned counsel for the respondent would contend that the petitioner had walked out of proceedings by stating to the Enquiry Officer that he would not care for enquiry and that his union would go to court.

13. It is a fundamental principle that both sides should be heard *audi alteram partem i.e.* hear the other side and it is often considered that it is broad enough to include the rule against bias since a fair hearing must be an unbiased hearing. One of the essential ingredients of fair hearing is that a person should be served with a proper notice *i.e.* a person has a right to notice. Notice should be clear and precise so as to give the other party adequate information of the case he has to meet and make an effective defence. Generally, a notice to be adequate must contain the following:

- (1) Time, place and nature of hearing;
- (2) Legal authority under which hearing is to be held;
- (3) Statement of specific charges, which a person has to meet.

14. In this case, the petitioner was served with notice under Ex.P4 dated 5-4-2010. In Ex.P4, the date of enquiry is mentioned as 10-4-2010. When the enquiry was scheduled to be conducted on 10-4-2010, it is for the respondent to send the notice to the petitioner well in advance so as to prepare himself to defend the enquiry proceedings. But the material on record would show that the petitioner had not been furnished with proper notices intimating him the date, time and place of hearing well before time.

15. Further the respondent has not given the copy of the standing orders in Tamil to the petitioner, despite several representations made by the petitioner to that effect. Ex.P9, Ex.P11 and Ex.P14 prove the fact that the respondent has not given the Tamil version of the model standing orders to the petitioner. The petitioner being a worker, is having right to ask all the correspondences in the vernacular language (Tamil language), as he is not aware of English language. As such the respondent is not allowed to escape from its liability in furnishing the Tamil translation of the model standing orders.

16. The allegation of the respondent is that the petitioner had walked out from the enquiry proceedings. But RW.1 during his cross-examination has stated that the Enquiry Officer has not given a complaint to the management regarding the said incident. Moreover, the respondent has not issued any show cause notice to the petitioner regarding the above allegation at any point of time. If the said allegation is true, definitely the management would have called for an explanation from the petitioner by issuing a show cause notice, but the respondent has not done so. Hence, the said allegation of the learned counsel for the respondent has not been established by them.

17. Apart from the above, it has to be seen that the Enquiry Officer by name V. Venkataraman is none other than the legal consultant of the respondent and he has

signed in 12(3) settlement on behalf of the management entered into between the management and its workers union. This is evident from the copy of Memorandum of Settlement under Ex.P24 and the same was also admitted by RW.1 during his cross-examination. Thus it is crystal clear that the Enquiry Officer played an active key role in the affairs of the respondent management and hence he is personally biased favouring the respondent during the enquiry proceedings, as rightly pointed out by the learned counsel for the petitioner.

18. The letters addressed by the respondent to the petitioner were marked as Ex.P10, Ex.P13 and Ex.P15. In all those letters, the respondent has stated that "if the petitioner opts not to attend the enquiry for any reasons, the management will be left with no option but to conduct and conclude the enquiry *ex parte*". Generally when a domestic enquiry is conducted by the Enquiry Officer, all the correspondences with regard to the enquiry proceedings should be sent by him only to the petitioner. But the above statement of the respondent makes it clear that the respondent management is having full control over the enquiry proceedings. Though the enquiry is purported to have been conducted by Venkataraman, the real Enquiry Officer in the present case is the respondent, as rightly pointed by the learned counsel for the petitioner.

19. A perusal of records would further show that the respondent management through their letter, dated 14-7-2010 under Ex.P16 has arbitrarily reduced the suspension allowance of the petitioner from 75% to 25% and the petitioner has challenged the said act of the respondent before this court in C.P. No. 2/2011 and the same was allowed in favour of the petitioner through order, dated 24-11-2011 under Ex.P25 and the respondent has deposited the entire amount as ordered before this court. Thus it is evident that the respondent in order to humiliate and harass the petitioner, reduced the suspension allowance arbitrarily. Hence, the contention of the learned counsel for the respondent that the petitioner was delaying the enquiry proceedings in intents and acts to continue getting of 75% of then drawn wages as subsistence allowance cannot be accepted. It is pertinent to refer the following decision, which is relevant to this case:-

2002(3) L.L.N. 327

"Domestic enquiry - Attender in hospital, served with charge memo - No subsistence allowance paid to him till final order was passed about 10 years later - He went before concerned authority under Payment of Subsistence Allowance Act - Though a direction was given to employer to pay subsistence allowance, nothing came to be paid - It is also admitted position that against that order, an appeal was filed and the

appeal was dismissed and yet no subsistence allowance was paid - Held, the whole enquiry is vitiated and rendered non est as per the established law laid down by Apex Court - That workman's civil suit was pending has not nothing to do with payment of subsistence allowance."

As per the above decision, if the subsistence allowance is not paid to the employee by the employer, the whole enquiry is vitiated. In the case on hand, as already stated, the petitioner has proved that the respondent has paid the reduced subsistence allowance to him. In the above circumstances, the non-payment of appropriate suspension allowance during the suspension period amounts to violation of principles of natural justice and hence, the termination order passed thereto is invalid and liable to be set aside. Accordingly, this point is answered.

20. In the result, the industrial dispute is partly allowed and the petitioner is entitled for reinstatement with continuity of service, 50% of back wages and other statutory benefits. No costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 6th day of August 2013.

T. MOHANDASS,
Presiding Officer,
Labour Court, Puducherry.

List of witness examined for the petitioner :

PW.1 — 7-6-2013 — Samidurai

List of witness examined for the respondent :

RW.1 — 8-7-2013 — Mahendran, Production Manager
of respondent company.

List of exhibits marked for the petitioner :

- Ex.P1 — Suspension letter sent by the respondent, dated 3-3-2010.
- Ex.P2 — Charge sheet issued by the respondent, dated 9-3-2010.
- Ex.P3 — Copy of the explanation letter by the petitioner, dated 17-3-2010.
- Ex.P4 — Enquiry notice sent by the respondent, dated 5-4-2010.
- Ex.P5 — Copy of the letter sent by the petitioner, dated 10-4-2010.
- Ex. P6 — Acknowledgment card
- Ex.P7 — Letter, dated 22-4-2010 sent by the respondent to the petitioner.

- Ex.P8 — Letter, dated 29-4-2010 sent by the respondent to the petitioner.
- Ex.P9 — Copy of the letter, dated 10-5-2010 sent by the petitioner.
- Ex.P10 — Letter, dated 21-5-2010 sent by the respondent.
- Ex.P11 — Copy of the letter, dated 1-7-2010 sent by the petitioner to respondent.
- Ex.P12 — Acknowledgment card
- Ex.P13 — Letter, dated 1-7-2010 sent by the respondent to the petitioner.
- Ex.P14 — Copy of the letter, dated 8-7-2010 sent by the petitioner.
- Ex.P15 — Letter, dated 13-7-2010 sent by the respondent to the petitioner.
- Ex.P16 — Letter, dated 14-7-2010 sent by the respondent to the petitioner
- Ex.P17 — Letter, dated 30-7-2010 sent by the respondent to the petitioner.
- Ex.P18 — Copy of the letter, dated 13-8-2010 sent by the petitioner.
- Ex.P19 — Enquiry report, dated 13-12-2010
- Ex.P20 — Show cause notice by the respondent to the petitioner, dated 10-10-2011.
- Ex.P21 — Copy of the explanation letter, dated 18-10-2011 sent by the petitioner.
- Ex.P22 — Dismissal order sent by the respondent, dated 31-1-2012.
- Ex.P23 — Copy of the letter sent by the petitioner, dated 29-2-2012.
- Ex.P24 — Copy of Memorandum of Settlement, dated 12-11-2008.
- Ex.P25 — Copy of order passed by the Labour Court, dated 24-11-2011.
- Ex.P26 — Copy of the letter given by the union to the respondent, dated 13-6-2009.

List of exhibits marked for the respondent :

- Ex.R1 — Copy of the charge sheet and its Tamil translation, dated 8-3-2010.
- Ex.R2 — Copy of the letter and its Tamil translation, dated 29-4-2010.
- Ex.R3 — Copy of the letter sent by the respondent, dated 21-5-2010.
- Ex.R4 — Copy of the letter/notice sent by the respondent, dated 1-7-2010.

- Ex.R5 — Copy of the letter and its Tamil translation, dated 13-7-2010.
- Ex.R6 — Copy of the show cause notice by respondent, dated 14-7-2010.
- Ex.R7 — Copy of show cause notice, dated 10-10-2011.

T. MOHANDASS,
Presiding Officer,
Labour Court, Puducherry.

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(GO. Rt. No. 166/Lab./AIL/J/2013, dated 18th November 2013)

NOTIFICATION

Whereas, the award in I.D. No. 16/2012, dated 23-7-2013 of the Labour Court, Puducherry in respect of the industrial dispute between the Managing Director, M/s. Power Soaps Ltd., Puducherry and Tmt. B. Veeralakshmi, over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said award shall be published in the official gazette, Puducherry.

(By order)

S. THAMMU GANAPATHY,
Under Secretary to Government (Labour).

BEFORE THE LABOUR COURT AT PUDUCHERRY

Present : Thiru T. MOHANDASS, M.A., M.L.,
Presiding Officer, Labour Court.

Tuesday, the 23rd day of July 2013

I.D. No. 16/2012

B. Veeralakshmi . . . Petitioner

Vs.

The Managing Director,
Power Soaps Limited,
Korkadu, Puducherry. . . Respondent

This industrial dispute coming on 9-7-2013 for final hearing before me in the presence of Thiruvallargal L. Vinoba and S. Ashok Kumar, Advocates for the petitioner

and Thiru R. Ilancheliyan and Ms. R. Thilagavathi, Advocates for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this court passed the following :

AWARD

This industrial dispute arises out of the reference made by the Government of Puducherry *vide* G.O. Rt. No. 70/AIL/Lab./J/2012, dated 12-4-2012 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, *viz.*,

(1) Whether the demand of Tmt. B. Veeralakshmi against the management of M/s. Power Soaps Limited, over non-employment is justified?

(2) If justified, to what relief the petitioner is entitled to?

(3) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. The petitioner, in his claim statement, has averred as follows:

The petitioner was working in the respondent industry as permanent worker for the past eight years. The respondent with arbitrary power, kept the workman at his mercy depriving of the appointment orders, status and privileges of the permanent workman and such act come under unfair labour practice on the part of the respondent as per the provisions of Industrial Disputes Act. Eventhough the petitioner is working for the past four years, she was not provided with proper salary slip, identity card and she was not allotted P.F. So the petitioner with the help of union, agitated against the respondent. The petitioner agitated before the respondent for all the basic amenities and needs of the workers through the union, by which she gathered the displeasure of the management.

On 7-7-2010 a show cause notice was issued to the petitioner stating that on 26-6-2010 the petitioner objected the co-employees in performing their work and this was questioned by one of the workers namely Murugan. The petitioner had quarrel with the said Murugan which ended in physical scuffle. The petitioner submitted her explanation denying the charges levelled against her. The respondent received the said explanation and suspended the petitioner temporarily from service on 17-8-2010.

The respondent initiated enquiry on 27-3-2010 and as a result of enquiry, the petitioner was found guilty and hence on 31-1-2011 the petitioner was terminated. There is no fair play of justice in conducting the domestic enquiry and it is only organised by the respondent in order to put out the petitioner deceitfully

fabricating the false evidences. The petitioner raised conciliation on 19-7-2011 and on receipt of the representation, the conciliation was initiated and ended in failure and therefore the petitioner came before this court on reference as stated above.

3. In the counter statement, the respondent has stated as follows:

The petitioner was working as daily rated employee and she was in the habit of committing various misconducts. With a view of spoiling the industrial harmony and peace, on 26-6-2010 the petitioner advised some of the workers to slow down the production and not to co-operate with the management. On that day, one of the other workmen interfered as not to do such illegal acts for which, she abused the said workman and entered into quarrel in the work place. The petitioner as such was in the habit of doing such unlawful acts and indulged in instigating illegal strike from 4-5-2009 to 7-5-2009 for which an enquiry was conducted and upon proving the charges levelled against her, she was given minor punishment *vide* order, dated 12-12-2009. Since the petitioner had not changed her attitude and again entered into quarrel with the co-workers, a show cause notice, dated 7-7-2010 was issued. The petitioner instead of giving reply, she made a counter claim against the said co-worker stating that he was scolded her by telling her caste name outside the factory. Since the explanation given by her was not satisfactory, she was issued a charge sheet, dated 22-7-2010 and was ordered for domestic enquiry through an independent Enquiry Officer. When the enquiry was pending she was engaged outsiders and threatened the management, for which she was placed under suspension with effect from 18-8-2010. The Enquiry Officer conducted the enquiry and the charges framed against her were proved beyond reasonable doubt. The petitioner was issued a notice, dated 24-12-2010 communicating the proposed punishment. In the reply, the petitioner has made various allegations against the Enquiry Officer. Hence, her explanation was not accepted and her services were terminated *vide* letter, dated 31-1-2010. In the above circumstances, the action taken by the respondent against the petitioner is well within the parameter of law and the punishment given to her is in proportion to the misconducts committed by her. Hence, the respondent prays for dismissal of the industrial dispute.

4. On the side of the petitioner, PW.1 was examined and Ex.P1 to Ex.P11 were marked. On the side of the respondent, RW.1 was examined and Ex.R1 to Ex.R15 were marked.

5. *The point for determination is:*

Whether the industrial dispute can be allowed?

6. *On the point :*

According to the petitioner, on 7-7-2010 a show cause notice was issued to her stating that on 26-6-2010 she objected the co-employees in performing their work and this was questioned by one of the workers by name Murugan and she had quarrel with him which ended in physical scuffle and she submitted her explanation denying the charges levelled against her and the respondent suspended her temporarily from service on 17-8-2010 and the respondent initiated the enquiry proceedings from 10-8-2010 and as a result of the enquiry, she was found guilty and hence she was terminated from service on 31-1-2011. In order to prove her claim, she examined herself as PW.1.

7. PW.1 in her evidence has deposed that eventhough she was working for the past eight years, she was not provided with proper salary slip, identity card and she was not allotted P.F. and hence the workers with the help of union, agitated against the respondent and the respondent management, taking into consideration of this act, isolated her and resisted her from entering the premises of the industry on 7-7-2010 stating that she has indulged in unauthorised activities which may disturb the peaceful atmosphere of the industry and further all the requests and the pleas of the workman has been refused and rejected by the management without adducing fair opportunity to her to establish her reasons.

8. *Per contra*, the contention of the respondent is that she was in the habit of committing various misconducts and with a view of spoiling the industrial harmony and peace, on 26-6-2010 the petitioner advised some of the workers to slow down the production and not to co-operate with the management and on that day, one of the other workmen interfered as not to do such illegal acts for which, she abused the said workman and entered into quarrel in the work place and the petitioner as such was in the habit of doing such unlawful acts and indulged in instigating illegal strike from 4-5-2009 to 7-5-2009 for which an enquiry was conducted and upon proving the charges levelled against her, she was given minor punishment *vide* order, dated 12-12-2009. In order to prove their contention, the General Manager of the respondent company was examined as RW.1.

9. But it is the case of the petitioner that one Thirumurugan, who is the Secretary of the union, which is recognised by the management, had quarrelled with her by touching her caste, which ended in physical scuffle. In order to prove her case, she has marked the copy of the letter addressed to the General Manager of the respondent company as Ex.P7, Copy of the letter addressed to the Superintendent of Police as Ex.P8, Copy of the complaint addressed to Women Commission as Ex.P9 and copy of the FIR of PCR Cell as Ex.P10.

A perusal of those documents reveals that the petitioner has given complaint against the said Thirumurugan to take action against him for insulting her by touching her caste with the respondent management and since they have not taken any action, she has given complaint to the Karikalampakkam Police and as they have also not taken any action, she filed a complaint to the Superintendent of Police and Women Commission and then only her complaint has been registered by the PCR Cell Police.

10. The respondent has issued a charge sheet to the petitioner based on the complaint given by the said Thirumurugan under Ex.R1 that the petitioner advised some of the workers to slow down the production and not to co-operate with the management and when some of the workers asked her about her illegal act, she abused them and entered into quarrel in the work place and the said workers complained him about the said act of the petitioner and when he questioned her, she scolded him in a filthy language by holding his shirt. Based on the said complaint received from the said Thirumurugan, the action was taken against the petitioner by issuing a charge sheet and conducting the domestic enquiry. But at the same time, when the petitioner has given complaint against the said Thirumurugan under Ex.P7 with the General Manager of the respondent company for insulting her by touching her caste, they have not taken any action against him. This would arise a doubt that since the said Thirumurugan is a Secretary of the union, which is recognised by the management, as stated by the petitioner, the respondent has not taken any action against him and they levelled false charges against her.

11. Further one of the witnesses on the side of the respondent management by name Seetha was cited as third witness. But she has not been examined as a witness to prove the misconduct committed by the petitioner. But the learned counsel for the respondent has submitted that as the said Seetha was threatened by the petitioner, she could not appear before the Enquiry Officer on fear with the petitioner. In order to support his claim, the respondent has marked the copy letter written by the said Seetha to the respondent management as Ex.R9. In Ex.R9 it has been stated that the petitioner has advised her to slow down the production and when she questioned the same, the petitioner scolded her in a filthy language and for the said incident, she was cited as a witness and on coming to know about the same, the petitioner threatened her not to give evidence against her in the enquiry proceedings and hence on fear with the petitioner, she could not appear in the enquiry directly. But the said Seetha has not been examined before this court as a witness on the side of the respondent. Without examining the said Seetha, Ex.R9, the alleged letter

written by her, cannot be taken into consideration. All the witnesses cited on behalf of the respondent management have deposed about the act of the petitioner as mentioned in the charge sheet. There is nothing wonder that the said witnesses have deposed as against the petitioner and in favour of the respondent, since they are the management witnesses. Admittedly the said Thirumurugan is the office bearer of the union and the petitioner is also one of the office bearers of the other union. The petitioner has alleged that the union in which the said Thirumurgan was the office bearer, is recognised by the management. Though there is no evidence produced by the petitioner to support her said version, the non-taking of action against the said Thirumurgam, against whom the complaint was filed by the petitioner, would confirm the said fact. In the above circumstances, the evidence of the management witnesses in the enquiry proceedings is not sufficient to prove the misconduct committed by the petitioner and the said witnesses have also to be examined before this court to substantiate their contention. In the above circumstances, the action taken by the respondent against the petitioner based on the enquiry report cannot be accepted.

12. According to RW.1, the petitioner after her termination, she was in the habit of making offensive and unlawful acts against the respondent by way of distributing handbills and posters to the workers and pasting notices in the compound-wall and was in the habit of attempting to abet the workers to spoil the peace and tranquility for which a complaint was given to Karikalampakkam Police Station, which was marked as Ex.R15. A perusal of Ex.R15 reveals that the said complaint was given to the police against eight workers including the petitioner. Whether any action has been taken by the police against the petitioner based on the said complaint, has not been explained by the respondent. Further the respondent has marked the copy of the writ petition as Ex.R14. A perusal of Ex.R14 reveals that the respondent management filed a writ petition against 9 persons for injunction and the same was allowed by the Hon'ble High Court, Madras. But the petitioner is not a party to the said proceedings. Hence, Ex.R14 and Ex.R15 are not support to the case of the respondent. In the above circumstances, for the reasons stated above, it is a fit case to this court to exercise the power given under section 11-A of the Industrial Disputes Act, 1948 to interfere with the penalty of termination order passed by the respondent management. Hence, this court has come to the conclusion that the order of termination passed by the respondent is illegal and the same is liable to be set aside. Accordingly, this point is answered.

13. In the result, the industrial dispute is allowed, the petitioner is entitled for reinstatement with continuity of service, 50% of back wages and other statutory benefits. No costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 23rd day of July 2013.

T. MOHANDASS,
Presiding Officer,
Labour Court, Puducherry.

List of witness examined for the petitioner :

PW.1 — 22-3-2013 — Veeralakshmi

List of witness examined for the respondent :

RW.1 — 5-6-2013 — Sanjay Madan

List of exhibits marked for the petitioner :

- Ex.P1 — Letter of assurance by the Chairman, dated 7-2-2009.
- Ex.P2 — Representation to Labour Commissioner, dated 20-3-2009.
- Ex.P3 — Representation letter, dated 23-3-2008.
- Ex.P4 — Representation to Labour Commissioner, dated 4-5-2009.
- Ex.P5 — Representation to Outpost Karikalampakkam, dated 6-10-2009.
- Ex.P6 — Representation to Villianur Police Station, dated 14-10-2009.
- Ex.P7 — Representation to Factory General Manager, dated 8-7-2010.
- Ex.P8 — Complaint to Mettupalayam Police Station, dated 1-9-2010.
- Ex.P9 — Complaint to Women Commission, dated 3-9-2010.
- Ex.P10 — Copy of the FIR, dated 28-12-2010
- Ex.P11 — Representation to Factory General Manager, dated 18-1-2011.

List of exhibits marked for the respondent :

- Ex.R1 — Complaint given by Thirumurugan, dated 26-6-2010.
- Ex.R2 — Memo. given by the respondent, dated 12-12-2009.
- Ex.R3 — Show cause notice issued by the respondent, dated 7-7-2010.
- Ex.R4 — Letter given by the petitioner, dated 8-7-2010.
- Ex.R5 — Explanation given by the petitioner, dated 15-7-2010.
- Ex.R6 — Charge sheet, dated 22-7-2010.
- Ex.R7 — Suspension order given by the respondent, dated 17-8-2010.
- Ex.R8 — Enquiry proceedings
- Ex.R9 — Letter, dated 29-9-2010 given by the Seetha.

- Ex.R10 — Enquiry report, dated 17-12-2010.
 Ex.R11 — Second show cause notice, dated 24-12-2010
 Ex.R12 — Explanation given by the petitioner, dated 18-1-2011.
 Ex.R13 — Termination order, dated 31-1-2011
 Ex.R14 — Order of Hon'ble High Court, Madras, dated 17-11-2009.
 Ex.R15 — Complaint given by the respondent to Karikalampakkam Police, dated 29-12-2011.

T. MOHANDASS,
 Presiding Officer,
 Labour Court, Puducherry.

**GOVERNMENT OF PUDUCHERRY
 LABOUR DEPARTMENT**

(GO. Rt. No. 167/Lab./AIL/J/2013, dated 18th November 2013)

NOTIFICATION

Whereas, the award in I.D. No. 52/2012, dated 2-8-2013 of the Labour Court (Karaikal Camp), Puducherry in respect of the industrial dispute between the management of M/s. Soundararaja Mills Limited, Nedungadu and its workman Thiru S. Amirthalingam, over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said award shall be published in the official gazette, Puducherry.

(By order)

S. THAMMU GANAPATHY,
 Under Secretary to Government (Labour).

**தொழிலாளர் நீதிமன்றம், புதுச்சேரி
 (காரைக்கால் முகாம்)**

முன்னிலை : திரு. து. மோகன்தாஸ், எம்.ஏ., எம்.எல்.,
 பி.ஜி.டி. எச்.ஆர்.டி.ஐ.,
 தலைமை தாங்கும் அலுவலர்.

2013-ஆம் ஆண்டு ஆகஸ்ட் மாதம் 2-ஆம் நாள் வெள்ளிக்கிழமை

தொழிற்சாலை எண் 52/2012

திரு. எஸ். அமிர்தலிங்கம் . . மனுதாரர்.
 எதிர்

நிர்வாகம்,
 செளந்தரராஜா மில்ஸ் லிமிடெட்,
 நெடுங்காடு. . . எதிர்மனுதாரர்.

இந்த மனு 2-8-2013 அன்று இறுதி விசாரணைக்காக என்முன் வந்தபோது, மனுதாரர் தரப்பில் தொழிற்சங்கப் பிரதிநிதி திரு. N. ராமர் ஆஜர் ஆகியும் மற்றும் எதிர்மனுதாரர் தரப்பில் வழக்குரைஞர்கள் M. இளஞ்செழியன் மற்றும் R. தம்பிராஜ் அவர்கள் ஆஜராகியும் எடுத்துரைத்த வாதங்களைக் கேட்கை செய்தும், வழக்கு சம்பந்தமான ஆவணங்களைப் படித்துப்பார்த்தும், இதுநாள் வரையில் பரிசீலனையில் இருந்த பின்னர், இந்த நீதிமன்றம் வழங்கும்—

தீர்வம்

1947-ம் வருடத்திய தொழிற்சாலைகள் சட்டம் பிரிவு 11(1) மற்றும் 11(3) கீழ் மனுதாரர், தனக்கு மீண்டும் பணியளிக்க வேண்டுமென்றும் பணித்தொடர்ச்சி, பின்சம்பளம் மற்றும் இதர சலுகைகளும் அளிக்க கோரியும், நிர்வாகத்திற்கு உத்தரவிடக் கோரி இந்தத் தொழிற்சாலை தாக்கல் செய்யப்பட்டுள்ளது.

2. மனுதாரர் தரப்பில் தாக்கல் செய்யப்பட்டுள்ள கோரிக்கை மனு சுருக்கம் பின்வருமாறு :

நான் 14-5-1990 முதல் எதிர்மனுதாரர் மில்லில் Assistant D.E.O-வாக பணியில் சேர்ந்து எவ்வித குற்றச்சாட்டுமின்றி பணிபுரிந்து வந்தேன். 2 முறை பதவி உயர்வு பெற்றேன். மாதச்சம்பளம் ரூபாய் 8,500 பெற்று வந்தேன். 5-4-2010 அன்று விடுப்பு எடுத்துவிட்டு மறுநாள் வேலைக்குச் சென்றபோது கணினி சரியாக வேலை செய்யவில்லை. அப்போது பவர் கட ஆனது. மேலும் UPS வேலை செய்யாததால், வேலை தடைபெற்றது. மேலாளர் என்னை intercom மூலம் தொடர்பு கொண்டு வரச்சொன்னார். நான் சென்றபோது என்னைக் கோபமாக, அசிங்கமான வார்த்தைகளால் “production report எடுக்காமல், என்ன புடிங்கிட்டு இருக்கிறாயா?” என்று திட்டினார். கணினி வேலை செய்யாததால், சம்பளப்பட்டியல் தயார்செய்து கொண்டிருப்பதாக சொன்னேன். உங்களுக்கு சம்பளம் முக்கியமா? உன் சம்பளத்தை நான் நிறுத்துகிறேன் என்று சொல்லி ராஜினாமாவில் கையெழுத்துப் போட்டு ஓடிப்போ என்றும் இல்லையென்றால் சம்பளம் மற்றும் செட்டில்மெண்ட் அனைத்தையும் நிறுத்திவிடுவேன் என்றும் மிரட்டி என்னை அடிக்க வந்தார். நான் பயந்து உள்ளிருந்து வெளியே வந்துவிட்டேன்.

3. 7-4-2010 அன்று எனது வேலை மற்றும் பாதுகாப்பு வேண்டும் என்றும் மார்ச் மாத சம்பளத்தை பெற்றுத்தர வேண்டும் என்றும் தொழிற்சாலை எழுப்பினேன். 18-5-2010-ல் ஏற்பட்ட பேச்சுவார்த்தையில் எனக்கு தர வேண்டிய சம்பளத்தை தரவேண்டும் என தொழிலாளர் அதிகாரி அறிவுறுத்தினார். 4-6-2010-ல்தான் சம்பளம் காலந்தாழ்த்தி எனக்குத் தரப்பட்டது. நான் பணியில் ஓடிக்கொண்டே வேலை செய்யவில்லை என்றும் அதனால் திண்டுக்கல்லுக்கு மாற்றம் செய்யப்பட்டதாகவும் 6-4-2010-ல் நானே வெளியேறிவிட்டேன் என்றும் நிர்வாகம் 15-6-2010 தேதியிட்ட கடிதத்தில் குறிப்பிடப்பட்டிருந்தது. இக்குற்றச்சாட்டுக்கள், பொய்யானதும் கற்பனையானதும் ஆகும் என்று 30-6-2010 தேதியிட்ட எனது மறுப்பு கடிதத்தில் கூறியிருந்தேன். நிர்வாகம்

சொன்னபடி, நான் திண்டுக்கல்லுக்கு வேலைக்குச் செல்ல மறுத்ததால் ராஜினாமா செய்யச் சொல்லி கடிதம் கேட்டு மிரட்டியதாக நான் கடிதத்தில் குறிப்பிட்டுள்ளேன். என்னைத் திண்டுக்கல்லுக்கு மாற்ற, நிலையானையில் அதிகாரம் இல்லை. நிர்வாகம் எனக்கு வேலை கொடுக்க மறுப்பது தொழிற்சாலைகள் சட்டம் 1947 பிரிவு 25(f)க்கு எதிரானதாகும். ஆகவே, எனக்கு மீண்டும் வேலையளிக்க வேண்டும் என்றும், பணித் தொடர்ச்சி, பின் சம்பளம் மற்றும் இதர சலுகைகளையும் அளிக்க வேண்டும் என்றும் உத்தரவு பிறப்பிக்க வேண்டும்.

4. எதிர்மனுதாரர் தாக்கல் செய்த எதிர்மனுவின் சுருக்கம் பின்வருமாறு :

மனுதாரர் தனது மனுவில் குறிப்பிட்டுள்ள விவரங்கள் உண்மைக்குப் புறம்பானவை மற்றும் சட்ட விதிகளுக்கு மாறானவை என்பதால் மனு தள்ளுபடி செய்யப்பட வேண்டும். மனுதாரர் 6-4-2010-ல் தன்னை வாய்மொழியாக வேலையைவிட்டு நிர்வாகம் நிறுத்திவிட்டதாக தொழில் தாவா எழுப்பினார். அதில் சமரச முறிவு 8-9-2010-ல் அளித்த பின்னர் 19-4-2010-ல் ராஜினாமா கடிதம் அளித்தார். அவருடைய ராஜினாமா ஏற்கப்பட்டு, அவருடைய கணக்குகளை முடித்துக்கொள்ள நிர்வாகம் கூறியது. அதன்பின்னர், மனுதாரர் ஆலைக்கு வரவில்லை. இவ்விஷயங்களை மனுதாரர் மறைத்து இம்மனுவை தாக்கல் செய்துள்ளார். 6-4-2010-ல் கணினி இயங்கவில்லை என்றும் அப்போது மேலாளர் தன்னை அழைத்து திட்டி, மிரட்டி, அடிக்க வந்ததாகவும் அதனால் பயந்து மில்லை விட்டு வெளியே வந்ததாகவும் மீண்டும் வேலை மற்றும் பாதுகாப்பு, மார்ச் மாதச்சம்பளம் கோரி தொழில் தாவா எழுப்பியதாகவும் கூறியுள்ள விஷயங்கள் உண்மைக்குப் புறம்பானவை. நிர்வாகம் எந்தச் சூழ்நிலையிலும் அவரை பணி நீக்கம் செய்யவில்லை. மனுதாரர் ராஜினாமா செய்து அது ஏற்றுக்கொண்ட பின் ஆலைக்கு வந்து தனது கணக்குகளை முடித்துக்கொள்ள மனுதாரர் வரவில்லை. அவருக்கு சேரவேண்டிய பணிக்கொடை, வருங்கால வைப்பு நிதி ஆகியவைகளை அளிக்க நிர்வாகம் தயாராக உள்ளது. மனுதாரரின் மனு தள்ளுபடி செய்யப்பட வேண்டும்.

5. இம்மனுவில் தீர்வுக்கு எழும் எழுவினாக்கள் :

மனுதாரர் தரப்பில், மனுதாரரான எஸ். அமிர்தலிங்கம் என்பவர் ம. சா. 1-ஆக விசாரிக்கப்பட்டு, ம. சா. ஆ. 1 முதல் 12 ஆவணங்களாக குறியீடு செய்யப்பட்டது.

எதிர்மனுதாரர் தரப்பில், எதிர்மனுதாரர் நிர்வாகத்தின் பர்சனல் மேனேஜரான A. ஜான் அமல்ராஜ் என்பவர் எ. ம. சா. 1 விசாரிக்கப்பட்டு எ. சா. ஆ. 1 மற்றும் 2 ஆவணங்களாக குறியீடு செய்யப்பட்டது.

எழுவினாக்கள் :

(1) இம்மனு ஏற்கத்தக்கது தானா ?

(2) எப்பரிகாரம் மனுதாரருக்குக் கிடைக்கும் ?

எழுவினாக்கள் 1 மற்றும் 2 :

தனக்கு மீண்டும் வேலையும், பணித் தொடர்ச்சி, பின் சம்பளம் மற்றும் இதர சலுகைகளையும், எதிர்மனுதாரர் நிர்வாகம் அளிக்க கோரி இம்மனுவை மனுதாரர் தாக்கல் செய்துள்ளார். மனுதாரர்

14-5-1990 முதல் கணினி இயக்குநராக எதிர்மனுதாரர் நிர்வாகத்தில் பணிபுரிந்து வந்தது ஒப்புக்கொள்ளப்படுகிறது. ஆனால், 5-4-2010 அன்று மனுதாரர் விடுப்பு எடுத்தபின்னர் 6-4-2010 அன்று வேலைக்குச் சென்றபோது கணினி சரிவர இயங்கவில்லை என்றும் அதனால், தனது பணி தடைபெற்றபோதும் தொழிலாளர்களின் சம்பளப்பட்டியல் தயார் செய்துகொண்டிருந்த போது தன்னை மேலாளர் அழைத்து திட்டியதாகவும் மேலும் ராஜினாமா கையெழுத்து போட்டுவிட்டு ஓடிப்போ என்று அவர் சொன்னதால் தாம் பயந்து மில்லை விட்டு வெளியே வந்து விட்டதாகவும், மேலும், தன்னை பழிவாங்கும் நோக்கத்துடன் திண்டுக்கல் மில்லுக்கு மாற்றம் செய்வதாகவும் தான் திண்டுக்கல்லுக்கு சென்று பணிசெய்ய மறுத்ததினால், ராஜினாமா கடிதம் கேட்டு மிரட்டி வெளியேற்றியதாகவும் கூறும் ம. சா. 1 கூற்று சரிதானா, என்பதை நாம் ஆய்வு செய்ய வேண்டியுள்ளது.

6. மனுதாரர் ம. சா. 1 ஆக ஆஜராதி சாட்சியம் அளிக்கையில் ம. சா. ஆ. 1 முதல் ம. சா. ஆ. 12 வரையான ஆவணங்களை தாக்கல் செய்துள்ளார். மனுதாரர் Programmer, Assistant Data Entry Operator மற்றும் Data Entry Operator என பதவி உயர்வு பெற்றதற்கான மூன்று அட்டையாள அட்டையின் நகல் ம. சா. ஆ. 1 ஆகும். தன்னை மேலாளர் மிரட்டியதால்தான் பயந்து வந்துவிட்டேன் என்றும் தனக்கு மீண்டும் பணியளிக்க வேண்டும் மற்றும் பணி பாதுகாப்பு அளிக்க வேண்டும் என்றும் 7-4-2010ல் மனுதாரர் தொழிலாளர் துறை அலுவலருக்கு எழுதிய கடித நகல் ம. சா. ஆ. 2 ஆகும். மனுதாரர் மெது வேலை செய்து சரியான நேரத்திற்கு பணிக்கு வராமல் இருந்து வந்தார் என்றும் மேலும், 6-4-2010 முதல் சொல்லிக்கொள்ளாமல் திடீரென பணியை விட்டு வெளியேறி விட்டார் என்றும் குறிப்பிட்டு நிர்வாகம் 15-6-2010ல் தொழிலாளர் அலுவலருக்கு, நிர்வாகம் அனுப்பிய பதில் மனு நகல் ம. சா. ஆ. 3 ஆகும். தனது மார்ச் 2010 சம்பளத்தை அளிக்காமல் இருந்த நிர்வாகம், அத்தொகை அளிக்க வேண்டும் என்று சமரச அலுவலர் அறிவுறுத்திய பின்னரும் அளிக்காமல் காலதாமதம் செய்து 21-6-2010ல் அந்த பாக்கித் தொகை அளித்ததாகவும், மேலும் தன்னை மிரட்டி நிர்வாகம் ராஜினாமா கடிதத்தை பெற்றுக்கொண்டதாகவும், மீண்டும் பணியளிக்க உத்தரவிடவேண்டும் என்றும் 30-6-2010ல் மனுதாரர், தொழிலாளர் துறைக்கு அளித்த கடித நகல் ம. சா. ஆ. 4 ஆகும். மற்றும் 9-8-2010ல் மீண்டும் தொழிலாளர் அலுவலருக்கு, மனுதாரர் அளித்த கடித நகல் ம. சா. ஆ. 5 ஆகும். சமரச முறிவறிக்கை நகல் ம. சா. ஆ. 6 ஆகும்.

7. ஒரு யாகூப் என்ற தொழிலாளி, தன்னை மில் அதிகாரிகள், பொது மேலாளர் அறைக்கு அழைத்துச் சென்று மாறி மாறி என்னை அடித்தார்கள் என்று குறிப்பிட்டு போலீசாருக்கு அளித்த புகார் மற்றும் மு.த. அறிக்கை ம. சா. ஆ. 7 ஆகும். 18-4-2010ல் மனுதாரரின், புதுமனை புகுவிழா அழைப்பிதழின் நகல் ம. சா. ஆ. 8 எனவும் மனுதாரரின் நகை அடகு வைத்ததற்கான ரசீது (4) நகல்கள் ம. சா. ஆ. 9 ஆகும். மற்றும் டிசம்பர் 1-12-2010 முதல் 31-1-2011 வரைக்கான தொலைபேசி கட்டண பில் மற்றும் அதற்கான ரசீது ம. சா. ஆ. 10 ஆகும். மாதச்சம்பள ரசீது ம. சா. ஆ. 11 எனவும் LIC-யில் மனுதாரர் தன் பாலிசி சரண்டர் செய்ததற்கான சான்றிதழ் நகல் ம. சா. ஆ. 12 எனவும் கண்டிருக்கின்றன. எதிர்மனுதாரர் நிர்வாக, பர்சனல் மேனேஜர் எ. ம. சா. 1 ஆக சாட்சியம் அளிக்கையில் தாக்கல் செய்யப்பட்ட பிரமாண உரையில்

குறிப்பிடுகையில் மனுதாரரை எப்போதும் எவரும் மிரட்டவில்லை என்றும் அவர் தானாக பணிக்கு வராமல் இருந்து விட்டார் என்றும் மனுதாரர் தானே முன்வந்து ராஜினாமா செய்துவிட்டார் என்றும் அதனால் அவருக்குச் சேரவேண்டிய பணிக்கொடை வருங்கால வைப்பு நிதி ஆகியவற்றை நிர்வாகம் வழங்க தயாராக உள்ளது என்றும் குறிப்பிட்டிருந்தார். மனுதாரர் ராஜினாமா கடித நகல் எ. சா. ஆ. 1 எனவும் அந்த ராஜினாமா கடித அசல் எ. சா. ஆ. 2 எனவும் கண்டிருந்தன. மனுதாரர் ராஜினாமா கடிதம் ஏற்றுக்கொள்ளப்பட்டதாக எ. ம. சா. 1 கூறினாலும் அந்த ராஜினாமா ஏற்றுக்கொள்ளப்பட்டதற்கு ஆதாரம் எதுவும் எ. ம. சா. 1 தாக்கல் செய்யவில்லை.

8. மனுதாரர் தரப்பு தொழிற்சங்கப் பிரதிநிதி வாதிடுகையில், மனுதாரரை நிர்வாக மேலாளர் மிரட்டியதால் பயந்து மனுதாரர் வெளியே வந்தார் என்றும் மேலும், தனக்கு பணியளிக்க வேண்டும் என்று ம.சா.ஆ.2 மூலம் கோரிக்கை வைத்தார் என்றும் மனுதாரர் தனது பணியினை சரிவர செய்யவில்லை என்ற குற்றச்சாட்டுக்களை எந்தவித விளக்கமும் கோரப்படவில்லை என்றும் ஒழுங்கு நடவடிக்கை இல்லை என்றும் மேலும், மார்ச்-2010க்குரிய சம்பளம் தரவில்லை என்று சமரச அலுவலரிடம் கோரிக்கை வைத்தபின்பும்கூட காலதாமதமாக, அச்சம்பளம் தரப்பட்டது. எவ்வித ஒழுங்கு நடவடிக்கையும் எடுக்காமல், மனுதாரருக்கு பணிமறுப்பு செய்துள்ளதால், இம்மனு அனுமதிக்கப்படக்கூடாது என எடுத்துரைத்தார். எதிர்மனுதாரர் தரப்பு அறிவார்ந்த வழக்குரைஞர் வாதிடுகையில், மனுதாரரின் கோரிக்கை ஏற்கப்பட்டியலாது என்றும் 6-4-2010-ல் தானே முன்வந்து பணியை விட்டு வேளியேறிய மனுதாரர், தொழிலாளர் அலுவலரிடம் மனு கொடுத்தபின், 14-9-2010-ல் எ.சா.ஆ.2 ராஜினாமா கடிதத்தை அளித்ததால், அந்த ராஜினாமாவும் ஏற்கப்பட்டுள்ளதால், மனுதாரர் கோரிய பரிகாரம் அளிக்க இயலாது என்றும் எடுத்துரைத்தார்

9. மனுதாரர் 1990 முதல் பணிசெய்து வந்து, 6-4-2010 முன்புவரை எவ்வித குறையுமின்றி பணி செய்து வந்ததாக தெரியவருகிறது. அதன் அடிப்படையில் முதலில் Programmer-ராக பணியில் சேர்ந்து பின்னர் 2 முறை பதவி உயர்வு அளிக்கப்பட்டதாக ம.சா.ஆ.1 அடையாள அட்டைகள் (3) தெரியவருகிறது. ஆகவே, முன் பணிகாலத்தில் பிரச்சனை இருப்பதாக தெரியவில்லை. 6-4-2010 அன்று தன்னை மிரட்டியதால், பயந்து வெளியே வந்த மனுதாரர், மறுநாளே தனக்கு பணி மறுக்கப்பட்டதாக ம.சா.ஆ.2 மூலம் தொழிலாளர் துறைக்கு மனு அளித்துள்ளதாக தெரியவருகிறது. அம்மனுவின்பேரில் சமரச அலுவலர், விசாரணை செய்து அளித்த ம.சா.ஆ.6-ல் தரப்பினருக்குள் சமரசம் ஏற்படவில்லை எனக் குறிப்பிட்டு முடிவளித்துள்ளார். 1-9-2010 தேதியிட்ட ம.சா.ஆ.6 சமரச முடிவறிக்கைக்குப் பின்னர், மில்லுக்கு வந்த மனுதாரர் 14-9-2010 அன்று எ.சா.ஆ.2 ராஜினாமா கடிதத்தை அளித்ததாக எ.ம.சா.1 சாட்சியத்தின்போது கூறியுள்ளார். ஆனால், இந்த ராஜினாமா கடிதம் பற்றி மனுதாரர் தரப்பில் மறுப்பு தெரிவிக்கப்பட்டுள்ளது. இந்த ராஜினாமா கடிதம் எந்தச் சூழ்நிலையில் பெறப்பட்டது என்பதுபற்றி மனுதாரர் விளக்கவில்லை. தனது சொந்த வேலை மற்றும் குடும்ப சூழ்நிலை காரணமாக தனது வேலையை ராஜினாமா செய்கிறேன் என்று எ.சா.ஆ.2-வில் கண்டிருக்கிறது.

எ.சா.ஆ.2-ல் கண்ட கையெழுத்து தன்னுடையது இல்லை என்றோ அல்லது அந்த எ.சா.ஆ.2 கடிதத்தை எந்தச் சூழ்நிலையில் இந்த அதிகாரி மிரட்டி எழுதி கையெழுத்துப் பெற்றார் என்றோ மனுதாரர் கூறவில்லை. இத்தகு சூழ்நிலையில் எ.சா.ஆ.2 கடிதத்தை, மனுதாரர் தானே எழுதிக் கொடுத்ததாக நம்மால் அறிய முடிகிறது. எ.சா.ஆ.2 கடிதம் சட்டப்படி ஏற்றுக்கொள்ளப்பட்டதாக சாட்சியம் அளிப்பதற்கு எந்தவித ஆவணமும், எதிர்மனுதாரர் தரப்பில் இல்லை. ஆனாலும், சங்கதிகளையும் சூழ்நிலையில் பார்க்கும்போது எ.சா.ஆ.2 கடிதம் மனுதாரரால் முன்வந்து கையெழுத்திட்டுக் கொடுக்கப்பட்டது என்றும் ஆகவே, மனுதாரருக்கு மீண்டும் பணியளிக்க வேண்டும் என்ற கோரிக்கை ஏற்கத்தக்கதாக இல்லை.

10. இருதரப்பு சங்கதிகளை நோக்கும்போது சுமார் 20 வருடம் பணி செய்ததாக கருதப்படும் மனுதாரர், எவ்வித குற்றச்சாட்டுகளும் இல்லாமல் அவர் பணி காலத்தில் பணி செய்துள்ளார் எனத்தெரிகிறது. மனுதாரரின் ராஜினாமா ஏற்கப்பட்டாலும், 20 வருட நீண்ட கால பணி செய்து வந்திருந்த மனுதாரரின் குறையில்லாத சேவையைக் கருத்தில்கொண்டு, மனுதாரருக்கு, எதிர்மனுதாரர் நிர்வாகம், கணிசமான தொகை அளிக்க உத்தரவிடலாம் என நான் கருதுகிறேன். அந்தவகையில் பார்க்கும்போது, எந்தவித குற்றச்சாட்டுகளும் இல்லாமல் பணிசெய்த மனுதாரருக்கு, தொகை ரூபாய் 1,50,000 (1.50 லட்சம்) இழப்பீட்டுத் தொகையாக, அளிக்க வேண்டும் என நான் கருதுகிறேன். பணிக்கொடை போன்ற டெர்மினல் பெனிபிட்ஸ் (terminal benefits) பலன்களும் அளிக்க நிர்வாகம் கடமைப்பட்டதாக நான் கருதுகிறேன்.

11. முடிவில், மனு பகுதியாக அனுமதிக்கப்படுகிறது. மனுதாரர் இழப்பீட்டுத் தொகையாக ரூபாய் 1,50,000 (1.50 லட்சம்) பெற உரியவர் எனவும் இத்தொகையை நிர்வாகம் அளிக்க கடமைப்பட்டவர் எனவும் உத்தரவிடப்படுகிறது. செலவுத் தொகை இல்லை.

என்னால் சொல்லப்பட்டு, தட்டச்சரால் தட்டச்சு செய்யப்பட்டு, 2013-ம் ஆண்டு ஆகஸ்ட் மாதம் 2-ம் நாள் அவையறிய பகரப்பட்டது.

து. மோகன்தாஸ்,

தலைமை தாங்கும் அலுவலர்,
தொழிலாளர் நீதிமன்றம், புதுச்சேரி.

விசாரிக்கப்பட்ட சாட்சிகளின் பட்டியல்

மனுதாரர் தரப்பில்:

ம.சா. 1 — எஸ். அமிர்தலிங்கம்.

எதிர் மனுதாரர் தரப்பில்:

எ.ம.சா.1 — A. ஜான் அமல்ராஜ் (நிர்வாகத்தின் பெர்சனல் மேனேஜர்).

குறியிடப்பட்ட ஆவணங்களின் பட்டியல்

மனுதாரர் தரப்பில்:

ம.சா.ஆ.1 — தொழிலாளியின் பதவி உயர்வுக்கான அடையாள அட்டை நகல்

ம.சா.ஆ.2	7-4-2010	தொழிலாளி, தொழிலாளர் துறைக்கு வேலை கேட்டு கொடுத்த கடித நகல்.
ம.சா.ஆ.3	15-6-2010	நிர்வாகம், தொழிலாளர் துறைக்கு கொடுத்த கடித நகல்.
ம.சா.ஆ.4	30-6-2010	தொழிலாளி, தொழிலாளர் துறைக்கு கொடுத்த கடித நகல்.
ம.சா.ஆ.5	9-8-2010	நிர்வாகம், தொழிலாளர் துறைக்கு கொடுத்த கடித நகல்.
ம.சா.ஆ.6	1-9-2010	தொழிலாளர் துறையின் சமரச முடிவு அறிக்கை நகல்.
ம.சா.ஆ.7	26-8-2010	யாகோப் என்ற தொழிலாளியை அடித்து மிரட்டியது சம்பந்தமாக நெடுங்காடு காவல் நிலைய முதல் தகவல் அறிக்கை நகல்
ம.சா.ஆ.8	—	தொழிலாளியின் புதுமனை புகு விழா அழைப்பிதழ் நகல்.
ம.சா.ஆ.9	—	தொழிலாளி கடன் வாங்கியதற்கான அடகு சீட்டுகளின் விவர நகல்.
ம.சா.ஆ.10	—	தொழிலாளிக்கு BSNL நிர்வாகம் தொலைபேசிக்கு பாக்கித் தொகை கட்ட அனுப்பிய பில்லின் நகல்
ம.சா.ஆ.11	—	2007- 2008 year bonus slip.
ம.சா.ஆ.12	—	LIC Policy surrender statement.

எதிர்மனுதாரர் தரப்பில்:

எ.சா.ஆ.1	14-9-2010	மனுதாரரின் ராஜினாமா கடிதம்
எ.சா.ஆ.2	14-9-2010	மனுதாரரின் ராஜினாமா கடித நகல்.

து. மோகன்தாஸ்.

தலைமை தாங்கும் அலுவலர்,
தொழிலாளர் நீதிமன்றம், புதுச்சேரி.

GOVERNMENT OF PUDUCHERRY DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT

(G.O. Ms. No. 13, dated 13th November 2013)

NOTIFICATION

The Government of India, Department of Information Technology, New Delhi have recently approved the National e-Governance Plan (NeGP) and in pursuance of this policy e-Governance initiatives are contemplated on a massive scale as enunciated in the National Common Minimum Programme. The NeGP vision aims to make all Government services accessible to the common man in his locality, through common service delivery outlets and ensure efficiency, transparency and reliability of such services at affordable costs to realise the basic needs of the common man.

2. In pursuance of the said policy guidelines of the Government of India, sanction of the Lieutenant-Governor, Puducherry has been conveyed for constitution of a Society known as "Puducherry District e-Governance Society".

3. (i) The Memorandum of Association, rules and regulations framed for establishing the said society viz., "Puducherry District e-Governance Society" has been approved for registration under the Societies Registration Act, 1860 to administer the implementation of the e-District Projects and for this purpose the appointment of the District Collector, Puducherry as Chairperson of the "Puducherry District e-Governance Society" has been approved for implementing the e-Governance Plan in the Puducherry District of this Union territory of Puducherry.

(ii) The implementation of the e-District projects shall be carried out in a speedy and time bound manner under the Chairmanship of District Collector, Puducherry by the said society viz., "Puducherry District e-Governance Society" (PDeGS) registered as a Society under the Societies Registration Act, 1860. The PDeGS in keeping the objects set forth will carry out various functions relating to the information and communication technologies.

4. The objective of the Puducherry District e-Governance Society (PDeGS) is to administer the implementation of e-District, a Mission Mode Project (MMP) for the overall benefit of the citizens and public by setting up the necessary administrative, financial, legal and technical framework, implementation mechanism and resources in the district of Puducherry. The PDeGS, Puducherry will function as per the guidance of the Directorate of Information Technology and Puducherry e-Governance Society, Puducherry. It will also facilitate to provide necessary training to Government officials/end users and required awareness programme/training to citizen.

5. Roles and responsibilities of PDeGS;

The PDeGS would—

- Implement e-District project and coordinate amongst the various stakeholders at field level.
- Provide commitment and support to bringing in the process changes.
- Provide overall guidance to the projects at district level.
- Work closely with the selected system integrator / implementing agency to undertake the field work, comprehend the requirement, document the observations, prepare roadmap and redesign the processes.